Chapter 3 -- Enrollment and Disenrollment Policies (OPL99.100)

Section 5.0 -- Disenrollment Procedures

Except as provided for in this section, a M+CO may not, either orally or in writing or by any action or inaction, request or encourage any member to disenroll. While a M+CO may contact members to determine the reason for disenrollment, the M+CO must not discourage members from disenrolling after they indicate their desire to do so. The M+CO must apply disenrollment policies in a consistent manner for similar members in similar circumstances.

5.1 -- Voluntary Disenrollment by Member

A member may disenroll from a M+C plan only during one of the election periods outlined in section 3.0 and 3.7. The election period will determine the effective date of the disenrollment; refer to sections 3.6 and 3.7 for information regarding disenrollment effective dates. The member may disenroll by giving a signed written notice to the M+CO, or any Social Security or RRB office (refer to section 5.6 for procedures for Medicare MSA plans). An individual who elects another M+C plan will automatically be disenrolled from his/her current plan.

If a member verbally requests disenrollment from the M+C plan, the M+CO must instruct the member to make the request in writing. The M+CO may send a disenrollment form to the member upon request (see Exhibits 9 and 10).

After the member submits a written request, the M+CO must provide the member within 5 business days of receipt of the request to disenroll a copy of the request for disenrollment and a disenrollment letter. The disenrollment letter must include an explanation of the lock-in restrictions for the period during which the member remains enrolled in the organization, and the effective date of the disenrollment (see Exhibit 11). The M+CO may also advise the disenrolling members to hold original Medicare claims for up to one month so that Medicare computer records can be updated to show that the person is no longer enrolled in the plan.

Since Medicare beneficiaries have the option of disenrolling through SSA, RRB, the HCFA Call Center (in some States), or by enrolling in another M+C plan, the M+CO will not always receive written request for disenrollment from the member and will instead learn of the disenrollment through the HCFA Reply Listing Report. If the M+CO learns of the voluntary disenrollment from the HCFA reply listing (as opposed to through written request from the member), the M+CO must send written confirmation of the

disenrollment to the member within 5 business days of the availability of the reply listing (see Exhibit 12).

5.2 -- Required Involuntary Disenrollment

The M+CO must disenroll a member from a M+C plan in the following cases. Refer to section 5.6 for some exceptions to required disenrollment for Grand fathered members.

- the member no longer permanently resides in the M+C plan's service area and a continuation of enrollment area does not apply; or,
- the member loses entitlement to either Part A or Part B; or,
- the member dies; or,
- the M+CO terminates its contract with HCFA, with respect to all M+C individuals who live in the area where the individual resides, or if the M+C plan is terminated, or if the service area or continuation area is reduced.

In situations where the M+CO disenrolls the member involuntarily on any basis except death or loss of entitlement, notices of the upcoming disenrollment meeting the following requirements must be sent. All disenrollment notices must:

1. advise the member that the M+CO is planning to disenroll the member and why such action is occurring;
2. be mailed to the member before submission of the disenrollment transaction to HCFA; and
3. include an explanation of the member's right to a hearing under the M+CO's grievance procedures (this explanation is not required if the disenrollment is a result of the M+C plan termination or service area or continuation area reduction, since a hearing would not be appropriate for that type of disenrollment).

5.2.1 -- Members Who Leave The Service or Continuation Area

The M+CO must disenroll a member if:

1. he/she permanently moves out of the service area and his/her new residence is not in a continuation area; or
2. he/she permanently moves out of the continuation area and his/her new residence is not in the service area or another continuation area; or
3. the member permanently moves out of the service area (or continuation area, for continuation of enrollment members) and into a continuation area, but chooses not to continue enrollment in the M+C plan (refer to section 7.7 for procedures for choosing the continuation of enrollment option); or
4. the member's temporary absence from the service area (or continuation area, for continuation of enrollment members) exceeds 12 months. The M+CO may not disenroll members whose temporary absence from the service area (or continuation area, for continuation of enrollment members) lasts for 12 months or less.

Disenrollments for reasons number 1, 2 and 3 above are effective the first day of the calendar month after the date the member begins residing outside of the M+C plan's service area (or continuation area, as appropriate), and after appropriate written notice has been provided to the member.

Disenrollment for reason number 4 above is effective the first day of the calendar month after 12 months have passed, and after appropriate written notice has been provided to the member.

Unless the member elects another M+C plan during an applicable election period, any disenrollment processed under these provisions will result in a change of election to original Medicare.

A SEP, as defined in section 3.4.1, applies to a member who makes a permanent move outside the M+C plan service area or M+CO continuation area of a M+C plan to which s/he belongs. A member may choose another M+C plan, or original Medicare, during this SEP. The rules for this SEP will determine the effective date in the new M+C plan or original Medicare.

M+COs may receive notice of a change of address from the member, the member's representative, a HCFA reply listing, or another source. M+COs may require members to provide written verification of changes in address, but they may also choose to allow verbal verification, as long as the M+CO applies the policy consistently among all members.

If the M+CO receives notice of a permanent change in address from the member or the member's representative, and that address is outside the M+C plan's service area (or continuation area, for continuation of enrollment members), then the M+CO must disenroll the member and provide proper notification. The only exception is if the member has moved from the service area into the continuation area and chosen the continuation of enrollment option (procedures for electing a continuation of enrollment option are outlined in section 7.7). If the change in address is temporary (i.e., not expected to exceed 12 months), then the M+CO may not initiate disenrollment. The M+CO must retain documentation from the member or member's representative of the notice of the change in address.

If the M+CO receives notice of a new address from a source other than the member or the member's representative, and that address is outside the M+C plan's service area (or continuation area, for continuation of enrollment members), then the M+CO may not assume the move is permanent until it has received confirmation from the member or member's representative. HCFA suggests that the M+CO contact the member directly or in writing to verify address information in order to determine whether disenrollment is appropriate. The M+CO must give the member at least 20 days to respond to the verification request. The M+CO must retain documentation from the member or member's representative of the notice of the change in address, including the determination of whether the move is temporary or permanent.

- If, based on this verification, the M+CO determines a member's move is permanent, then the M+CO must provide written notice of disenrollment to the member. The only exception is if the member has moved into and chosen the continuation of enrollment option (procedures for electing a continuation of enrollment option are outlined in section 7.7).
- If the M+CO determines the change in address is temporary, then the M+CO may not initiate disenrollment until 12 months have passed from the date the M+CO learned of the change in address (or from the date the member states that his address changed, if that date is earlier).
- If the member does not respond to the request for verification within the time frame given by the M+CO, then the M+CO must assume the move is not permanent and may not disenroll the member. The M+CO may continue its attempts to verify address information with the member, but may not initiate disenrollment unless it verifies a move is permanent or until the member has been out of the service area (or continuation area, for continuation of enrollment members) for over 12 months from the date the M+CO learned of the change in address.

Notice Requirements: The M+CO is strongly encouraged to contact a member directly or in writing when it learns of a change of address from a source other than the member or the member's representative, in order to verify the change of address and determine whether disenrollment is necessary. The M+CO must give the member at least 20 days to respond to the request for verification.

The M+CO must provide written notification of disenrollment to the member upon the M+CO's learning through the member or a member's representative of a permanent move out of the service area (in which the member has not moved into and elected a continuation area) or out of the continuation area (for continuation of enrollment members). This notice must be sent within 5 business days of the M+CO's learning of the permanent move.

If the member has left the service area (without having chosen a continuation area) or continuation area (for continuation of enrollment members) for more than 12 months after the date the M+CO learned of the change in address (or the date the member stated that his address changed, if that date is earlier), the M+CO must provide written notification of the upcoming disenrollment to the member. The notice may be sent no earlier than 20 days before the end of the 12th month, and no later than 5 business days after the 12th month. The notice must advise the member to notify the M+CO within 20 days of receipt of the notice if the information is incorrect. The notice must also state that if the member has not responded after the 20 days have passed, or if the member indicates that s/he will not be returning to the service/continuation area before the 12 months have passed, the M+CO must disenroll the member effective with the first day of the month following the 20-day notice. HCFA strongly encourages that M+COs send final confirmation of disenrollment to the member to ensure the individual does not continue to use M+CO services.

5.2.2 -- Loss of Entitlement to Part A or Part B

As of January 1, 1999, with the exception of part B-only Grand fathered members (as described in sections 2.6 and 5.6), the M+CO cannot retain a member in a M+C plan if the member is no longer entitled to both Part A and Part B benefits. The organization will be notified by HCFA that entitlement to either Part A or Part B has ended, and HCFA will make the disenrollment effective the first day of the month following the last month of entitlement to either Part A or Part B benefits (whichever occurred first).

Beginning in 1999, if a member loses entitlement to Part A, the M+CO may not allow the member to remain a member of the plan and receive Part B only services. In addition, the M+CO may not offer Part A-equivalent benefits and charge a premium for such coverage to members who lose entitlement to Part A. If a member loses entitlement to Part B, the M+CO may not allow the member to remain in the M+C plan.

Notice Requirements: HCFA strongly suggests that notices be sent when the disenrollment is due to the loss of entitlement to either Part A or Part B (see Exhibit 14) so that any erroneous disenrollments can be corrected as soon as possible. In cases of erroneous disenrollment and notification, see section 7.3.1.

5.2.3 -- Death

HCFA will disenroll a member from a M+CO upon his/her death and HCFA will notify the M+CO that the member has died. This disenrollment is effective the first day of the calendar month following the month of death.

Notice Requirements: In cases where the disenrollment is based on an apparent death, HCFA strongly suggests that a notice be sent to the member or the estate of the member (see Exhibit 13) so that any erroneous disenrollments can be corrected as soon as possible. In cases of erroneous disenrollment and notification, see section 7.3.1.

5.2.4 -- Terminations/Nonrenewals

The M+CO must disenroll a member from a M+C plan if the M+C plan contract is terminated, or the service area or continuation area are reduced with respect to all M+C plan members in the area in which they reside. The M+CO must give each Medicare member a written notice of the effective date of the M+C plan termination or service area or continuation area reduction, and a description of alternatives for obtaining benefits under the M+C program (including original Medicare as an alternative). Required time frames for these notices are outlined in 42 CFR 422.506-422.512. A member who is disenrolled under these provisions has a SEP, as described in section 3.4.3, to elect a different M+C plan or original Medicare. A member who fails to make an election during this SEP is deemed to have elected original Medicare.

Notices to Member: The M+CO must give each Medicare member a written notice of the effective date of the plan termination or service area or continuation area reduction and a

description of alternatives for obtaining benefits under the M+C program. Required time frames for these notices are outlined in 42 CFR 422.506 - 422.512.

5.3 -- Optional Involuntary Disenrollments

A M+CO may disenroll a member from a M+C plan it offers if:

1. premiums are not paid on a timely basis; or,
2. the member engages in disruptive behavior; or,
3. the member provides fraudulent information on an election form, or if the member permits abuse of an enrollment card in the M+C plan.

In situations where the M+CO disenrolls the member involuntarily for any of the reasons addressed below, the M+CO must send notice of the upcoming disenrollment that meets the following requirements

1. advise the member that the M+CO is planning to disenroll the member and why such action is occurring;
2. be mailed to the member before submission of the disenrollment transaction to HCFA; and
3. include an explanation of the member's right to a hearing under the M+CO's grievance procedures.

5.3.1 -- Failure to Pay Premiums

M+COs may not disenroll a member who fails to pay M+C plan copayments. However, a M+CO has three options when a member fails to pay the M+C plan's basic and supplementary premiums. The M+CO must take action consistently among all members. The M+CO may:

1. Do nothing, i.e., allow the member to remain enrolled in the same premium plan; or,
2. Disenroll the member after proper notice (as discussed below); or,
3. Reduce the member's coverage (also known as "downgrade") to the standard benefit package in the same M+C plan after proper notice (as discussed below). Such an action would be considered an addendum to the member's original election in the M+C plan, and would not be considered a new election. Refer to Chapter 4 for a definition of "standard benefit package."

If the M+CO chooses to disenroll the member or reduce coverage, the action may only be accomplished by the M+CO when payment has not been received within 90 days after the date a notice of non-payment was sent to the member. The M+CO must send a notice of non-payment of premiums within 20 days after the delinquent premiums were due, and must notify the member if s/he will be disenrolled or if coverage will be reduced.

While the M+CO may accept partial payments, it has the right to ask for full payment within the 90-day grace period. If the member does not pay the full premium within the 90-day grace period, the effective date of disenrollment or reduction in coverage is the first day of the month after the 90-day period ends. Unless the member elects another M+C plan during an applicable election period, any disenrollment processed under these provisions will always result in a change of election to original Medicare.

Notice Requirements: If the M+CO chooses to disenroll the member or to reduce coverage when a member has not paid premiums, the M+CO must send an appropriate written notice to the member **within 20 days** after the date the delinquent premiums were due (see Exhibit 19). This notice must:

- alert the member that the premiums are delinquent; and,
- provide the member with an explanation of disenrollment procedures; and,
- advise the member that failure to pay the premiums within the 90 day grace period will result in termination or reduction of M+C coverage, whichever is appropriate according to the M+CO policy; and,
- explain the implications of a reduction in coverage (e.g., description of lower level of benefits), if the M+CO policy is to reduce coverage.

While the M+CO may accept partial payments the M+CO has the right to state in its notice that the member can avoid disenrollment or a reduction in coverage only by paying the full amount owed within the grace period. In addition, the M+CO may send interim notices after the initial notice.

If a member does not pay within 90 days of the date of the initial notice, and the M+CO policy is to disenroll the member, the M+CO plan must notify the member that the M+CO is planning on disenrolling him/her and provide the effective date of the member's disenrollment (refer to Exhibit 20 for a model letter). In addition, HCFA strongly encourages that M+COs send final confirmation of disenrollment to the member to ensure the individual does not continue to access M+CO services (refer to Exhibit 21 for a model letter).

If a member does not pay within 90 days of the date of the initial notice, and the M+CO policy is to reduce coverage, the M+CO plan must notify the member that the M+CO is reducing the coverage and provide the effective date of the change in benefits (refer to Exhibit 22 for a model letter).

5.3.2 -- Disruptive Behavior

The M+CO may disenroll a member if the member's behavior is disruptive, unruly, abusive, or uncooperative to the extent that his/her continued enrollment in the plan seriously impairs the M+C organization's ability to furnish services to either the particular member or other members enrolled in the plan. However, the M+CO may only disenroll a member for disruptive behavior upon approval from HCFA. The M+CO may not disenroll a member because the member exercises the option to make treatment

decisions with which the M+CO disagrees, including the option of no treatment and/or no diagnostic testing. The M+CO may not disenroll a member who chooses not to comply with any treatment regimen developed by the M+CO or any health care professionals associated with the M+CO.

Before beginning the disenrollment for cause process, the M+CO must make a serious effort to resolve the problems presented by the member. It must inform the member, in writing, that his/her continued behavior may result in termination of membership in the plan. Such efforts must include the use (or attempted use) of the organization's grievance procedures. In this process, the member has a right to submit any information or explanation that he or she may wish to the M+CO.

If the problem cannot be resolved, the M+CO must give the member written notice of the M+CO's intent to request, from HCFA, permission to disenroll for cause.

The M+CO must establish that the member's behavior is not related to the use, or lack of use, of medical services or to diminished mental capacity. The organization must document the member's behavior, the efforts it has taken to resolve any problems, and any extenuating circumstances cited under 42 CFR 422.74(d)(2)(iii) and (iv). In addition to a summary of the case and a reason for the disenrollment request, the M+CO must submit to the HCFA RO a description of the member's age, diagnosis, mental status, functional status, and social support systems, as well as statements from primary providers describing their experiences with the member.

After a review of this documentation, the HCFA RO will decide whether the organization may disenroll the member on this basis. Such review will include any documentation or information provided either by the organization or the member (information provided by the member must be forwarded by the organization to the HCFA RO) and HCFA will make the decision within 20 business days after receipt of this information. The M+CO will be notified within 5 business days after HCFA's decision. The disenrollment is effective the first day of the calendar month after the month in which the organization gives the member a written notice of the disenrollment. Any disenrollment processed under these provisions will always result in a change of election to original Medicare.

Notice Requirements: The M+CO must inform the member, in writing, that his/her continued behavior may result in termination of membership in the plan. If the problem cannot be resolved, the M+CO must give the member written notice of the M+CO's intent to request disenrollment for cause. This notice must include an explanation of the organization's grievance procedures. In this process, the member has a right to submit any information or explanation that he/she may wish to the organization. Refer to Chapter 7 on the appropriate procedures for grievances.

If HCFA permits a M+CO to disenroll a member for disruptive behavior, the M+CO must provide the member with a written notice that contains:

- the reason for disenrollment, and,

- the effective date of termination, and,
- a statement that this action was approved by HCFA and meets the requirements described elsewhere in these instructions.

5.3.3 -- Fraud and Abuse

A M+CO may disenroll a member who knowingly provides, on the election form, fraudulent information that materially affects the member's eligibility to enroll in the plan. The organization may also disenroll a member who intentionally permits others to use his/her enrollment card to obtain services or supplies from the plan or any authorized plan provider. Such a disenrollment is effective the first day of the calendar month after the month in which the organization gives the member the written notice.

When such a disenrollment occurs, the organization must immediately notify the HCFA RO so the Office of the Inspector General may initiate an investigation of the alleged fraud and/or abuse. Any disenrollment processed under these provisions will always result in a change of election to original Medicare.

Notice Requirements: The M+CO must give the member a written notice of the disenrollment that contains the effective date of the termination.

5.4 -- Processing Disenrollments

5.4.1 -- Voluntary Disenrollments

After receipt of a completed disenrollment request from a member, the M+CO is responsible for submitting disenrollment transactions to HCFA in a timely, accurate fashion. Such transmissions must occur within 15 days of receipt of the completed disenrollment request, in order to ensure the correct effective date. As outlined in Chapter 19, M+COs may submit enrollment and disenrollment transactions daily; therefore, given the 15-day requirement outlined above, a M+CO may need to submit disenrollment transactions at least twice per monthly cycle.

The M+CO must maintain a system for receiving, controlling, and processing voluntary disenrollments from the M+CO. This includes:

- Dating each disenrollment request as of the date it is received (regardless of whether the request is complete at the time it is received by the M+CO) to establish the date of receipt;
- Dating supporting documents for disenrollment requests as of the date they are received, with the last piece of information establishing the "date of receipt" of disenrollment forms that were incomplete when originally received;
- Processing disenrollment requests in chronological order by date of receipt of completed disenrollment requests;
- Transmitting disenrollment information to HCFA within 15 days of the receipt of the completed disenrollment request from the individual or the employer

(whichever applies). If the disenrollment information is received through the employer, the M+CO must obtain the member's written request to the EGHP to disenroll;
- For disenrollment requests received by the M+CO, assuring that each individual who disenrolls receives a signed copy of the completed disenrollment request;
- For disenrollment requests received by the M+CO, notifying the member in writing within 5 business days after receiving the request to acknowledge receipt of the completed disenrollment request and to provide the effective date (see Exhibit 11 for a model letter);
- For all disenrollments, notifying the member in writing to confirm the effective date of disenrollment within 5 business days of the availability of the reply listing (see Exhibit 12 for a model letter).

5.4.2 -- Involuntary Disenrollments

The M+CO is responsible for submitting involuntary disenrollment transactions to HCFA in a timely, accurate fashion.

The M+CO must maintain a system for controlling and processing involuntary disenrollments from the M+CO. This includes:

- Maintaining documentation leading to the decision to involuntarily disenroll the member;
- Notifying the member in writing of the upcoming involuntary disenrollment ;

In addition, HCFA strongly encourages M+COs to send confirmation of involuntary disenrollment to ensure the member discontinues use of M+CO services after the disenrollment date.

5.5 -- Disenrollments Not Legally Valid

When a disenrollment is not legally valid, a reinstatement action may be necessary (refer to section 7.3 for more information on reinstatements). In addition, the reinstatement may result in a retro-disenrollment from another plan.

A voluntary disenrollment that is not complete, as defined in section 1.0, is not legally valid. In addition, there are instances in which a disenrollment that appears to be complete can turn out to be not legally valid. For example, automatic disenrollments due to an erroneous death indicator or an erroneous loss of Part A or Part B indicator are not legally valid.

HCFA also does not regard a voluntary disenrollment as actually complete if the member or his/her representative did not intend to disenroll from the M+CO. If there is evidence that the member did not intend to disenroll from the M+CO, the M+CO should submit a reinstatement request to the HCFA RO. Evidence that a member did not intend to disenroll may include:

- A disenrollment request signed by the member when a legal representative should be signing for the member; or,
- Request by the member for cancellation of disenrollment before the effective date (refer to section 7.2 for procedures for processing cancellations);

Discontinuation of payment of premiums does not necessarily indicate that the member has made an informed decision to disenroll.

In contrast, we believe that a member's deliberate attempt to disenroll from a plan (e.g., filing a HCFA-566 with SSA, sending a written request for disenrollment to the M+CO) implies intent to disenroll. Therefore, unless other factors indicate that this disenrollment is not valid, what appears to be a deliberate, member-initiated disenrollment should be considered valid.

5.6 -- Disenrollment of Grand fathered Members

As discussed in section 2.6, any individual who was enrolled in a § 1876 risk plan effective December 1, 1998 or earlier and remained enrolled with the risk plan on December 31, 1998 automatically continued to be enrolled in the M+CO on January 1, 1999, even if s/he was not entitled to Part A or did not live in a M+C plan service area or M+CO continuation area.

Disenrollment procedures for Grand fathered members are the same as those for other members. However, the reason for required disenrollment may be different for certain Grand fathered members.

As with any other member, M+CO must disenroll a Grand fathered member if:

- the member dies; or,
- the member permanently moves into the continuation area, but does not choose to continue enrollment.

In addition, a M+CO must disenroll a Part B-only Grand fathered member if:

- the member permanently moves to an area that is out of the service or continuation area; or,
- the M+CO terminates its contract with HCFA, with respect to all M+C individuals who live in the area where the individual resides or if the M+C plan is terminated, or if the service area or continuation area is reduced; or,
- enrollment in Medicare Part B ends for the member.

A M+CO must also disenroll an ESRD Grand fathered member if:

- the member loses entitlement to either Part A or Part B; or,

- the M+CO terminates its contract with HCFA, with respect to all M+C individuals who live in the area where the individual resides or if the M+C plan is terminated, or if the service area or continuation area is reduced; or,
- the member permanently moves to an area that is out of the service or continuation area.

A M+CO must also disenroll an out-of-area Grand fathered member if:

- the member loses entitlement to either Part A or Part B; or,
- the member permanently moves to an area that is out of the service or continuation area. In other words, while the member was living out of the service or continuation area at the time s/he was Grand fathered into the M+C plan, a subsequent permanent move into an area that is not in the service or continuation area is grounds for disenrollment; or,
- the M+CO terminates its contract with HCFA.

5.7 -- Disenrollment Procedures for Medicare MSA Plans

Members of Medicare MSA plans may only disenroll in writing through the Medicare MSA plan; they may not disenroll through the Social Security office or the RRB. Election periods and effective dates for disenrollment from Medicare MSA plans are outlined in section 3.7.

Medicare MSA plans must otherwise follow the disenrollment policies and procedures outlined in sections 5.2 through 5.5.